

REMARKS

This paper is responsive to the Office Action of October 17, 2008. Applicants respectfully traverse all rejections of the Examiner. Reconsideration and further examination is respectfully requested.

The present claim amendments clarify and more precisely claim the present invention. Support for the present claim amendments is found throughout the Specification as originally filed. For example, support for the present claim amendments is shown in Fig. 1, and found in lines 4-18 on page 7. No new matter has been added.

Claims 8-12 and 14 were objected to for optional limitations and non-statutory subject matter under 35 U.S.C. 101. Amendments to the claims are respectfully believed to satisfy all requirements in this regard.

Claims 1 and 8 stand rejected for obviousness under 35 U.S.C. 103 based on the combination of U.S. patent number 7,072,959 ("Huart"), U.S. patent application publication 2002/0124090 ("Poier") and U.S. patent application publication 2004/0156356 ("Baeder"). Applicants respectfully traverse this rejection.

Huart discloses a communication system including a server, a call manager, and network endpoints. The network endpoints of Huart are assigned to network regions to allow selection of a proper compression/decompression algorithm (codec) for a call between the network endpoints. In one embodiment, the Huart server receives a request for a network address from a network endpoint, and communicates the network address and a network location parameter identifying a network region to the endpoint. In another embodiment, the call manager of Huart receives a call

request from a network endpoint and determines a network region for the endpoint based on the endpoint's network address. In another embodiment of Huart, an endpoint determines its own network region based on its network address.

A Network 102 in Fig. 1 of Huart is shown including several network regions 104, each of which is defined by a particular subnet 106. The regions 104 of Huart include locations where network endpoints 400 can be coupled to the network, and are interconnected by communication links 110 having varying bandwidths depending on which regions 104 are connected. The subnets 106 of Fig. 1 in Huart are described as corresponding to specific network addresses. Specifically, in lines 34-44 in column 3, Huart teaches that a network address defining the network location of network endpoints or other devices typically includes a portion corresponding to the particular subnet 106 in which the device resides. Fig. 5 of Huart shows a table 500 relating network addresses to specific regions.

Poier discloses enabling secure transfer of information between nodes in a workgroup over a public network by facilitating the creation of a virtual private network (VPN). The Poier system preferably includes at least a pair of nodes and a VPN server. The Poier system is centrally managed such that when an attribute relating to a node or server is revised, the configuration information related to that attributed is updated at each node within the VPN. The Poier system further preferably includes a datastore linked to the server and a client application located at each node.

In paragraph 0049, with reference to Fig. 4, Poier teaches use of a gateway 24 that includes a library portion containing attributes of the servers connected to the gateway 24. The gateway 24 of Poier controls access to several nodes, each indicated as a server 25, is considered a node by other users within a VPN, and includes a key pair associating it with each of the other

nodes in the system. Poier specifically discloses that during a logon process shown in Fig. 2 of Poier, a server 18 detects the presence of the gateway 24 and, during a synchronization phase, a datastore 20 provides information to the gateway 24 as to the range of IP addresses that are assigned to nodes behind the gateway. Poier further teaches that the gateway 24 includes a set of rules called security associations that are designed to control access to the VPN such that the gateway protects a plurality of nodes.

Baeder discloses a gateway that varies the length of voice data packets to be transmitted as a function of the spatial distance and/or time distance of the called party from the caller. Voice calls in the local area are assigned long packet lengths in Baeder to optimize bandwidth utilization and improve voice quality, and voice calls for long distances, where increased interference may occur on the long transmission link, are assigned short packet lengths, thereby increasing the throughput of voice data packets and thus improving voice quality.

In paragraph 0021, Baeder teaches that a categorization according to the spatial distance of the called party from the caller is created based on the number of the called party. In paragraph 0036, Baeder teaches that a module in the gateway may be used for determining the time delay of a transmission of a voice data packet from the caller to the called party to determine an associated packet length.

Nowhere in the combination of Huart, Poier and Baeder is there disclosed or suggested any method or system providing voice communications over a packet-based data communication network by:

receiving a call request;
determining whether the requested call would span a gateway connecting a local network to an external network; and

in response to a determination that the requested call would not span the gateway connecting the local network to the external network, increasing a size of packets used in the call. (emphasis added)

as in the present independent claim 1. In contrast, the combination of Huart, Poier and Baeder discloses a system that determines regions of parties to a call based on subnet addresses as disclosed in Huart in order to determine an appropriate codec to be used during a call, that determines the presence of a gateway device during a logon process in order to set a range of IP addresses assigned behind the gateway device as in Poier, and that varies packet length of a call based on spatial distance between parties determined from the dialed number or the determined time delay of transmission as in Baeder. Significantly, the only determination of the presence of a gateway in the combined references is found in Poier, which specifically teaches determination of presence of the gateway *at logon time*, for purposes of *initializing certain data within the gateway*. This stands in contrast to the determination of gateway presence in the presently claimed invention, which is expressly set forth as determining *whether a requested call* would span a gateway connecting a local network to an external network. Nothing in the combined references provides any hint or suggestion of even the desirability of performing a determination of gateway presence with regard to a requested call. Specifically, with regard to determinations made for requested calls, the combined references only describe determining regions of calling parties to select a codec in Huart, and determining spatial distance in Baeder to determine packet length. Moreover, nothing in the combined references provides any teaching as to any need to determine packet length based on anything other than the spatial determinations based on *dialed number or transmission delay* described in Baeder, and nothing in the combined references

includes any hint or suggestion of the possibility or desirability of using a determination of gateway presence as a surrogate or supplement to the determinations made based on subnet address in Huart and/or the determinations based on dialed number or transmission delay described in Baeder. Thus the combined references cannot determine a packet size for a requested call based on a determination of whether the requested call would span a gateway, as in the present independent claims. Applicants also respectfully disagree that a person skilled in the art would modify the combined references as proposed by the Examiner, since the teachings within the combined references do not motivate such a modification, and since the proposed modifications to the cited references go counter to their specific teachings.

For the above reasons, Applicants respectfully submit that the combination of Huart, Poier and Baeder does not support a *prima facie* case of obviousness with regard to the present independent claims 1 and 8 under 35 U.S.C. 103.

The dependent claims stand rejected under 35 U.S.C. 103 based on Huart, Poier and Baeder, in further combinations with U.S. patent 7,283,541 (“Michelson”), U.S. patent application publication 2003/021904 (“Kotabe”), and U.S. patent application publication 2004/0259544 (“Amos”). As set forth in detail above, Huart, Poier and Baeder do not disclose or suggest all the features of the present independent claims 1 and 8. The addition of the teachings of Michelson, Kotabe and/or Amos fails to remedy the shortcomings of Huart, Poier and Baeder described above. Michelson teaches managing packet size on a per-call basis, using factors such as distance between gateways, current backbone network status, service requested or access mechanism for a given call is disclosed. Kotabe discloses a packet communication device using a timer for always completing the transmission of a received packet within a delay assurance time length assurable by itself, and Amos discloses a system for sending and receiving Voice-over-

Internet-Protocol over a wireless computer network using a hybrid wireless Voice-over-Internet-Protocol telephone. Nothing in the cited combinations of Huart, Poier and Baeder with Michelson, Kotabe and/or Amos disclose or suggest the determining of whether a requested call would span a gateway connecting a local network to an external network, as in the present independent claims 1 and 8. The dependent claims 2-5, 7, 9-12, and 14-18 are respectfully believed to be patentable over the cited combinations for at least the same reasons.

For the above reasons, Applicants respectfully request that the rejections based on Huart, Poier and Baeder, and Michelson, Kotabe and/or Amos be withdrawn. This application is now considered to be in condition for allowance and such action is earnestly solicited.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 617-630-1131 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

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